

June 3, 2021

Brazos Electric Cooperative, Inc.  
Attn: Clifton Karnei, Vice President  
& General Manager  
P.O. Box 2585  
Waco, TX 76702

Re: Engagement Letter Agreement

Dear Mr. Karnei:

Thank you for selecting Ted B. Lyon & Associates, The Gallagher Law Firm and West & Associates (collectively, the “Firm”) to serve as counsel to represent Brazos Electric Cooperative, Inc. (“Brazos Electric” or “You”). The purpose of this Engagement Letter Agreement (the “Agreement”), is to ensure that we have a clear understanding of our working relationship going forward. Please do not hesitate to contact us if you have any concerns.

**1. Scope of Engagement**

This Agreement confirms the terms of this matter. As we discussed, the scope of our engagement will be to represent you in connection with [REDACTED]

[REDACTED]. This will include conducting a preliminary investigation, filing a complaint or complaints, conducting discovery and preparing for trial, trial and prosecuting or defending any appeals, as may be applicable. Our representation of you in the Matter shall not include providing any other legal services not pertaining to the Matter.

**2. Staffing**

We will keep you informed of our progress in the Matter, and will utilize our best efforts to respond to you as promptly as possible. We will provide you with a status report no less frequently than monthly. In return, you agree to keep us informed of any developments that affect the Matter as soon as you become aware of them, and to be available when we need to consult with you.

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3. **Fees and Billing**

A. **Contingent Fee Arrangement**

This is a **CONTINGENT FEE** representation. You agree that the Firm will be compensated from any recoveries obtained in the Matter for its fees and expenses under this Agreement as follows:

a. The Firm shall first be reimbursed for any unpaid reasonable costs and expenses incurred by the Firm in connection with the Matter. Such costs and expenses will be advanced by the Firm. If no recovery is obtained, you shall have no liability for any such costs and expenses, which shall be deemed waived.

b. The Firm shall receive as fees one-third (1/3) of the value of any settlement, judgment or other recovery, in whole or in part, as related to the Matter.

c. The contingent fee proportions or percentages and other compensation terms set forth in this Agreement are not set by law, but have been negotiated at arm's length between you and the Firm.

B. **Potential Recovery of Attorneys' Fees**

In the event that any of the recoveries obtained pursuant to this Agreement are for attorneys' fees or litigation expenses, any such amounts recovered shall be added to all other sums recovered, and the Firm's contingent fee will be calculated based on the total amount recovered, including attorneys' fees.

C. **Attorney's Lien**

To the full extent permitted by applicable law, Brazos Electric hereby grants the Firm an attorney's lien on any judgment or recovery in connection with the Matter to secure payment of the Firm's fees, costs and expenses as set forth herein.

D. **Settlement Approval**

The firm shall not make any settlement or compromise of any nature without your prior written approval. You have the absolute right, in your sole and absolute discretion, to accept or reject any settlement offer proposed. In making that determination, however, you shall consider and weigh fully our opinions concerning whether a settlement proposal represents a fair and reasonable basis for the disposition of such litigation.

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E. Recovery Payment

You agree that payment of any recovery obtained in connection with this Matter shall be jointly payable to you and the Firm, and we shall cooperate in good faith in the negotiation of the payment and the distribution of funds as called for hereunder.

4. Termination of Representation

Subject to limitations on withdrawal imposed by any applicable code governing lawyer's conduct, the Firm, or any of us, may withdraw from representing you for any reason, including but not limited to any of the grounds described in this section. Subject to the terms of this Agreement, You also may discharge us for any reason at any time.

a. In an unusual situation, you may decide to withhold your consent to a settlement, notwithstanding our opinion that the settlement offer is the best offer that you are likely to receive and that rejecting the settlement and risking a trial or other similar proceeding would pose a substantial adverse risk to you of no recovery or a materially smaller recovery. In such circumstances, the Firm may withdraw from the representation if, in our reasonable opinion, your refusal to settle amounts to an insistence on your part on pursuing an objective the Firm considers repugnant or imprudent, continued representation will result in an unreasonable financial burden on the Firm, or the Firm's representation of you has been rendered unreasonably difficult by such refusal. Any withdrawal and termination of the representation under this paragraph shall comply with the applicable Rules of Professional Conduct and may be subject to court approval.

b. In the event we file any motion to withdraw under paragraph 4.a above, you agree to execute all documents necessary to facilitate our withdrawal, including any documents necessary to obtain the court's approval of the withdrawal. Upon withdrawal, we will cooperate with you in transferring the file to you or your other selected counsel, subject to the other terms of this Agreement.

c. Our representation of you will be considered terminated at the earlier of (a) your termination of our representation, or (b) our withdrawal from our representation of you, we shall have no duty to inform you of any subsequent events, developments, or changes in law that could affect your rights and liabilities.

5. Disposition of Files and Records

a. Following the conclusion of the Matter, we will maintain the confidentiality of any of your confidential information provided us in accordance with applicable rules of professional conduct. We will attempt to return to you any original documents provided by you, or provided by a third party, unless you provide written authorization to destroy them.

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b. The Firm has internal policies that determine the retention period for closed representation files, which includes all electronic or hard copy records related to the Matter. Therefore, we will retain the files pertaining to the Matter, including material prepared by or for the internal use of our attorneys, for a minimum period of ten (10) years following the conclusion of the Matter. Therefore, if you do not request return of this file material prior to the expiration of the retention period, the Firm reserves the right to destroy it at the end of the defined retention period without further notice to you. Upon your reasonable request, the Firm will provide such portions of these file materials to you as required by the applicable rules of professional responsibility or other legal requirements. Unless applicable rules of professional responsibility require an earlier return, we may retain such file material pending receipt of payment of any outstanding fees or costs.

**6. Arbitration**

Any dispute over fees and/or costs or property valuation (a “Dispute”) related to the Matter will be submitted to and settled exclusively by binding arbitration, in accordance with the provisions of this section, subject only to any applicable requirement of law that the parties engage in a preliminary non-binding mediation or arbitration regarding fee disputes. Binding arbitration shall be conducted in accordance with the Judicial Arbitration and Mediation Service Streamlined Rules & Procedures (the “JAMS Rules”). Arbitration shall be held in Dallas County, before an arbitrator selected pursuant to the JAMS Rules who will have no personal or pecuniary interest, either directly or indirectly, from any business or family relationship with either of the parties. All decisions of the arbitrator will be final, binding, and conclusive on the parties.

The parties will equally share the costs of the arbitrator and the arbitration fee (if any). Each party will bear that party’s own attorneys’ fees and costs, and the prevailing party will not be entitled to reimbursement by the other party of any of its fees or costs incurred in connection with the arbitration hereunder, regardless of any rule to the contrary in the applicable arbitration rules. Either party may seek confirmation of the arbitration award in a court of appropriate jurisdiction and venue. By signing this Agreement containing this provision, you agree to waive any and all rights to a jury trial regarding any Dispute.


Before you sign this agreement you should consider consulting with another lawyer about the advisability of making an agreement with mandatory arbitration requirements. Arbitration proceedings are ways to resolve disputes without the use of the court system. By entering into agreements that require arbitration as the way to resolve fee disputes, you give up (waive) your right to go to court to resolve those disputes by a judge or jury. These are important rights that should not be given up without careful consideration.

**7. Bankruptcy Court Approval**


This Agreement is subject to the approval by Order of the United States Bankruptcy Court for the Southern District of Texas, Houston Division, Case No. 21-30725.

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Please confirm your approval of this Agreement by returning a signed copy. If you have any questions, or if this Agreement does not accurately set forth our arrangement, please let me know. We look forward to working with you on this Matter.

  
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**TED B. LYON & ASSOCIATES**  
18601 Lyndon B Johnson Fwy Suite 525  
Mesquite, TX 75150

  
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**THE GALLAGHER LAW FIRM**  
2905 Sackett St  
Houston, TX 77098

  
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**WEST & ASSOCIATES, L.L.P**  
320 S R L Thornton Freeway Service Rd # 300  
Dallas, TX 75203  
Enclosures


AGREED AND ACCEPTED:

**BRAZOS ELECTRIC POWER COOPERATIVE, INC.**

BY:

  
\_\_\_\_\_  
PRES

ITS:

  
\_\_\_\_\_  
General Manager and  
Executive Vice President